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OFFICE OF THE DISTRICT MAGISTRATE-CUM-CHAIRPERSON,
DISTRICT DISASTER MANAGEMENT AUTHORITY, U.T., CHANDIGARH

Order

The 4th February, 2022

No. DM/MA/2022/2819.—Whereas, the country is at critical juncture in its fight against COVID-19 and the Ministry of Home Affairs, Govt. of India as well as the Chandigarh Administration has issued various guidelines from time to time to prevent the spread of COVID-19.

Whereas, an order bearing No. 13180-HIII(5)/2022/2064, dated: 03.02.2022 has been issued by the Chandigarh Administration to contain the spread of COVID-19.

Now, therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Union Territory, Chandigarh, in exercise of powers vested with me under section 144 of the Cr.P.C., do hereby order that **there shall be prohibition on movement of individuals for all non-essential activities between 12:30 A.M. to 05:00 A.M. in Chandigarh.** No person shall leave their homes or shall move on foot or by vehicle or travel or stand or roam around on any road or public places during above said hours.

However, the movement of following persons and services shall be exempted :

1. Essential activities including emergency services, medical health, transport of essential goods, operation of multiple shifts in industries, offices, etc. (both Government & private), movement of persons and goods on National & State Highways, unloading of cargo and travel of persons to their destinations after disembarking from buses, trains and airplanes.
2. Those tasked with law & order, municipal services, duties including Executive Magistrates, Police personnel, Military/C.A.P.F. personnel in uniform, electricity, fire, media persons with accreditation, telecom services and Government machinery with COVID-19 related duties (all on production of Identity Card).
3. There shall be no curbs on inter-State and intra-State movement of essential and non-essential goods.

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Jalinder Kumar
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4. All vehicles/persons in bonafide transit (inter-State/intra-State) shall be allowed to pass, but only after due verification of point of origin and destination.
5. Hospitals, chemist shops and A.T.M.s shall be allowed to remain open 24 X 7.
6. Pregnant women and patients for getting medical/health services.
7. All hotels/restaurants/café/coffee shops/eating places, etc. including home delivery are allowed to function up-to 12:00 midnight.
8. Those specially issued a restricted movement pass by the officers authorized in this behalf. Persons seeking movement pass may contact on 0172-2700076 & 0172-2700341 or apply online on www.admser.chd.nic.in/dpc for a movement pass. Sh. Pardhuman Singh, H.C.S. and Sh. Sanjeev Kohli, R.L.O. will be the Nodal Officers for this purpose.
9. All passes related to the Hon'ble Punjab & Haryana High Court and District Courts shall be issued by the Registrar General, Punjab & Haryana High Court.

Any breach of this order shall invite action under section 188 of the Indian Penal Code.

This order shall come into force **with immediate effect and shall remain in force till further orders** and shall also supersede the earlier order issued by this office *vide* no. 468, dated: 07.01.2022 and order no. 963, dated: 14.01.2022.

In view of the emergent nature of the order, it is being issued *ex parte* and is addressed to the public in general.

This order shall be promulgated by affixing copies thereof at the notice boards of the office of the undersigned as well as District Courts and publication in the newspapers having circulation in the area, through the office of the D.P.R., Chandigarh.

Given under my hand & seal on 04.02.2022.

VINAY PRATAP SINGH, I.A.S.,
District Magistrate-cum-Chairperson,
District Disaster Management Authority,
U.T., Chandigarh.

OFFICE OF THE DISTRICT MAGISTRATE, CHANDIGARH

Order under section 144 Cr. P.C.

The 19th January, 2022

No. DM/MA/2022/1286.—Whereas it has been made to appear to me that there is an apprehension that anti-social elements may make their hideouts clandestinely in the residential/commercial areas of the Union Territory of Chandigarh. If suitable measures to prevent the same are not taken, the unlawful activities of these people can cause breach of peace and disturbance of public tranquility besides posing grave danger to human life and safety and injury to public property.

And whereas, I, Vinay Pratap Singh, I.A.S., District Magistrate, U.T., Chandigarh, am of the opinion that some check is necessary on landlords/owners/managers of residential/commercial establishments so that anti-social elements in the guise of ordinary tenants, domestic servants & Paying Guests may not cause harm to the citizens and that immediate action is necessary for prevention of the same.

Now therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, U.T., Chandigarh in exercise of the powers vested with me under section 144 of the Cr.P.C., do hereby order as an emergency measure that, no landlord/owner/tenant/manager of residential, commercial, etc. establishments shall rent out or sub-let any accommodation to any person, unless and until he/she has furnished the particulars of the said tenants or Paying Guests to the local Police Station. Also, no landlord/owner/tenant/manager of residential, commercial, etc. establishments shall employ any servant unless and until he/she has furnished the particulars of the said servant(s) to the local Police Station. All the persons who intend to offer accommodation on rent or employ any servant shall inform in writing the particulars of tenants, Paying Guests & servants to the Station House Officer concerned in whose jurisdiction the premises fall. Any breach of this order would invite action under section 188 of the Indian Penal Code.

In view of the emergent nature of the order, it is being issued *ex parte* and is addressed to the public in general.

This order shall come into force with effect **from zero hours on 19.01.2022** and shall be effective for a period of sixty days **up-to and including 19.03.2022** and is applicable to those also who already have domestic servants/maids and has not informed the Police yet when the order is in force.

This order shall be promulgated by affixing copy thereof at the Notice Boards of the office of the undersigned as well as the District Courts, Chandigarh and publication in the newspapers having circulation in the area, through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 17-01-2022.

VINAY PRATAP SINGH, I.A.S.,
District Magistrate,
Chandigarh.

OFFICE OF THE DISTRICT MAGISTRATE, CHANDIGARH

Order under section 144 Cr. P.C.

The 19th January, 2022

No. DM/MA/2022/1320.—Whereas it has been made to appear to me by the suggestions/inputs received from the Police authorities that there is an apprehension that anti-social elements may make their temporary hideouts clandestinely in Hotels/Restaurants/Sarais/Guest Houses, etc. in the Union Territory of Chandigarh and there is every possibility that the unlawful activities of these people can cause breach of peace and disturbance of public tranquility besides posing grave danger to human life & safety and damage to public property.

And whereas the undersigned, being the District Magistrate, Chandigarh is of the opinion that for the purpose of preventing the type of terrorist acts, breach of peace, disturbance of public tranquility and damage to public property, it is necessary to proceed under Section 144 of the Code of Criminal procedure, 1973 for issuing directions to all the owners/managers/care-takers, etc. of Hotels/Restaurants/Guest Houses/Sarais, etc. in Chandigarh to obtain I.D. proof from the visitors/customers/guests who stay in their Hotel/Restaurant/Guest House/Sarai, etc., in the interest of safety and security of general public in the U.T., Chandigarh.

Now therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh in exercise of the powers vested with me under section 144 Cr.P.C., hereby direct the owners/managers/care-takers, etc. of the Hotels/Restaurants/Guest Houses/Sarais, etc. in Chandigarh to strictly comply with the following :

1. Prohibit the stay in their premises of unknown person whose identity has not been established.
2. Maintain a register for identity of the visitors/customers/guests.
3. Make an entry in the handwriting of the visitor/customer/guest, mentioning his/her name, address, telephone number and identity proof along with his/her signature in the register.
4. The identity of the visitor shall be established through Aadhar Card, Identity Card, Voter Card, Ration Card, Driving Licence, Passport and photo Credit Card.

This order shall come into force with effect **from zero hour on 19.01.2022** and shall be effective for a period of 60 days **up-to and including 19.03.2022.**

In view of the emergent nature of the order, it is being issued *ex parte* and is addressed to the public in general. Any breach of this order shall invite action under section 188 of the I.P.C.

This order shall be promulgated by affixing copies thereof on the Notice Boards of the office of the under-signed as well as the District Courts, Chandigarh and publication in the newspapers having circulation in the area, through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 17-01-2022.

VINAY PRATAP SINGH, I.A.S.,
District Magistrate,
Chandigarh.

OFFICE OF THE DISTRICT MAGISTRATE, CHANDIGARH

Order under section 144 Cr. P.C.

The 19th January, 2022

No. DM/MA/2022/1309.—Whereas, it has been made to appear to me that because of possibility of law & order problem, security threats and possibility of misuse of Drone by anti-social elements and others who can create panic in the public and also public nuisance, and as such there is very high apprehension of breach of peace and disturbance of public tranquility besides danger to human lives and safety by using of Drone and low flying objects.

And whereas I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh, am of the opinion that flying of Drone and low flying objects, within the Union Territory, Chandigarh must be prohibited to prevent undue loss to the life and the property.

Now therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh, do hereby prohibit as measure of urgency to the public generally or any member thereof on the flying of Drone and low flying objects etc., within the limits of Union Territory of Chandigarh for a period of 60 days.

Provided that the above order shall not apply to :

1. Police personnel and other Government officials/agencies if using the drone purely in connection with their official duties, subject to the following conditions:
 - a. That the police personnel and other Government officials shall be in their service uniform, if any and shall carry their identity cards and authorization cards authorizing them to use the drone in connection with their official duties, issued by the Competent Authority.
 - b. That the exemption is applicable in relation to the above said personnel only when they are on official duty.
2. Using the drone for photography during certain social events for which prior permission of the District Magistrate, Chandigarh has been obtained in writing. These social events may include-ring ceremony, pre-wedding photo shoot, wedding ceremony.

This order shall come into force **from zero hours on 19.01.2022** and shall be effective for a period of sixty days **up-to and including 19.03.2022.**

In view of the emergent nature of this order, it is being issued *ex parte* and is addressed to the public in general. Any breach of this order would invite action under section 188 of the I.P.C.

This order shall be promulgated by affixing copy thereof on the notice board of the office of the under-signed as well as the District Courts, Chandigarh and by publication in local newspapers through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 17-01-2022.

VINAY PRATAP SINGH, I.A.S.,
District Magistrate,
Chandigarh.

OFFICE OF THE DISTRICT MAGISTRATE, CHANDIGARH

Order under section 144 Cr. P.C.

The 19th January, 2022

No. DM/MA/2022/1331.—Whereas it has been made to appear to me that a large number of commercial places/shops have come up in Chandigarh popularly known as Cyber Cafes and a large number of people visit these places to use the facilities available there including e-mail facilities and therefore certain anti-social elements, criminals and terrorists may use these facilities to mislead the security/investigation agencies, create panic in the public, endanger the security of general public, V.I.P.s and government institutions, and help the terrorist activities directly affecting the security of the State.

And whereas, I, Vinay Pratap Singh, I.A.S., District Magistrate, U.T., Chandigarh, am of the opinion that immediate action is necessary to take speedy recourse to prevent danger to human lives from any terrorist act which may affect the security of the State and disturb the public peace and tranquility.

Now therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh in exercise of the powers vested with me under section 144 of the Cr.P.C., hereby direct the owners of the Cyber Cafes to strictly comply with the following :

- (i) prohibiting the use of Cyber Cafes by unknown person whose identity has not been established by the owner of the café;
- (ii) maintaining a register for identity of the visitor/user;
- (iii) make an entry in the handwriting of the visitor/user mentioning name, address, telephone number and identity proof. The visitor/user shall also sign the register kept for this purpose;
- (iv) the identity of the visitor/user shall be established through identity card, voter card, ration card, driving license, passport and photo credit card;
- (v) activity server log should be preserved in main server and its record should be preserved for at least six months;
- (vi) if any activity of the visitor is of a suspicious nature, the owner of the Cyber Cafe will inform the police station;
- (vii) record be maintained about the specific computer used by the person.

This order shall come into force **from zero hours on 19.01.2022** and shall be effective for a period of sixty days **up-to and including 19.03.2022**.

In view of the emergent nature of the order, it is being issued *ex parte* and is addressed to the public in general. Any breach of this order shall invite action under section 188 of the I.P.C.

This order shall be promulgated by affixing copy thereof at the Notice Boards of the office of the undersigned as well as the District Courts, Chandigarh and publication in the newspapers having circulation in the area, through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 17-01-2022.

VINAY PRATAP SINGH, I.A.S.,
District Magistrate,
Chandigarh.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 19th January, 2022

No. 13/1/9386-HII(2)-2022/919.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 18/2017, dated 30.11.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT / GENERAL SECRETARY, CHANDIGARH GOVT. TRANSPORT WORKER'S UNION, C/O SHRI D. R. KAITH, CHAMBER NO.104, DISTRICT COURT, SECTOR 43, UNION TERRITORY, CHANDIGARH. (Workers' Union)

AND

1. DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, CHANDIGARH.
2. DIRECTOR TRANSPORT, UNION TERRITORY, CHANDIGARH. (Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9386-HII(2)-2017/6657, dated 20.07.2017.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9386-HII(2)-2017/6659, dated 20.07.2017 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 17.06.2015 by President/General Secretary, Chandigarh Govt. Transport Worker's Union, C/o Shri D.R.Kaith, Chamber No.104, District Court, Sector 43, Union Territory, Chandigarh And The Divisional Manager, Chandigarh Transport Undertaking, Chandigarh and Director Transport, Union Territory, Chandigarh, are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. The President / General Secretary, Chandigarh Govt. Transport Worker's Union (*hereinafter called "workers' union"*) had served demand notice dated 17.06.2015 in respect of Shri Yadvinder Singh - Conductor No.741, Chandigarh Transport Undertaking, Chandigarh (*hereinafter called "workman"*) upon the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh & Another (*hereinafter called "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter called "ID Act"*). Upon notice, the workers' union appeared through its representative. Demand notice was ordered to be treated as statement of claim. Case of the workers' union in brief is that the workman joined his service on 03.05.2004 and had been performing his duties with diligence and devotion. He was charge sheeted as per charge-sheet dated 13.07.2004 on two accounts. The first charge against the workman was that on 18.05.2004 when his bus was checked, it was found that he had taken amount of ₹40/-from five passengers at the rate of ₹10/- per passengers, who were travelling from Bus stand, Sector 43 to Bus Stand, Sector 17, but had not issued the tickets to them. Second allegation was that on 31.05.2004 when his bus was checked three passengers were found without tickets who had paid at the rate of ₹5/- per passengers and were travelling from Bus Stand Sector-17, Chandigarh to Bus Stand Sector 43, Chandigarh. The workman replied to the charge-sheet but without appreciating his reply, the Inquiry Officer was appointed. The Inquiry Officer did not conduct the inquiry in fair and proper manner and without taking into consideration the defence of the workman submitted

the inquiry report against the workman. The workman again made a representation against the inquiry report but punishing authority without appreciating the same passed an order of punishment on 31.08.2006 whereby stopped one increment of workman with cumulative effect. Order of punishment dated 31.08.2006 is illegal, arbitrary and against the rules and deserves to be aside on the grounds that charge No.1 is false and is falsified by the actual facts. It is admitted case that fare from Bus-Stand Sector 43 to Bus Stand Sector 17 is ₹ 5/- per passengers, then why passenger had given ₹10/- each for the same journey. There is no explanation for the same on the part of the department and Inspectors so the charges have been concocted in order to falsely implicate the workman. There is no evidence on record in support of charges to prove that workman had charged money from the passengers and had not issued the tickets to them. There is also no evidence to prove that passengers without tickets were actually found when the bus was checked. The statement of Inspectors is hear-say and same cannot be accepted unless and until same is supported by some evidence. The charge-sheet as well as reports against the workman are illegal and are in violation of the instructions issued by department from time to time to follow the procedure by the Inspecting Staff in order to avoid false reports against the conductors. The Union had raised the demand against illegal implications of conductors in false cases and in response to the demand of the union the department had issued instructions that while checking the bus Inspectors must record the statements of passengers who are found without tickets and also to check the cash of the workman. But in this case neither the statement of the passengers was recorded nor the cash of the workman was checked so the checking was conducted in violation of the rules. The Inquiry Officer as well as punishing authority gave their findings on the basis admission of the workman, which is false. The workman never admitted his fault. Un-punched tickets were taken from the workman without his consent. Before checking started, un-punched tickets as well as way bill were taken from the workman by the Inspectors. Before handing over the same to workman the Inspectors took away the un-punched tickets from the workman and made a false report. If workman would have not handed over the waybill and un-punched tickets before checking in that case they would have made the report of misbehavior with Inspectors. The Inspectors have admitted in evidence that they demanded un-punched tickets from conductor in this question of admission of the part of workman does not arise at all. Two reports as alleged to have been made on different dates have been clubbed in one charge-sheet which act is illegal and against rules. There is no order of competent authority to club different reports in one charge-sheet. The Inquiry Officer has not conducted the inquiry in fair and proper manner. The Inquiry Officer had not recorded the statement of Inspectors before him. The witnesses have only stated that their report is their statement but no such reports have been exhibited during inquiry proceedings and proved on record as per law. In the absence of proof of the alleged reports the statements of Inspectors as well as alleged reports cannot be considered at all. So findings of the Inquiry Officer as well as that of punishing authority are illegal and against law. The Inquiry Officer as well as punishing authority have not considered the material on record and have not given any reasoning for rejection of the defence of the workman. The workman met with accident on 20.05.2007 and remained confined to bed till 02.05.2010. He joined his duties on 03.05.2010. Thereafter workman remained under treatment as outdoor patient and is still under treatment so could not pursue his case. When the workman recovered from injuries he filed an appeal on 14.05.2014, but appellate authority without considering the grounds of appeal dismissed the same as per order dated 15.13.2014 / 09.01.2015 by a non-speaking order. Ultimately, it is prayed that the order of punishment dated 31.08.2006 and order of the appellate authority dated 15.12.2014 / 09.01.2015 be set aside and all the monetary benefits to the workman along with interest at the rate 12% per annum be released.

3. The management contested the case of the workers' union and filed written statement that the workman was appointed as Conductor and joined his service on 03.05.2004. The bus was checked by the checking staff on 18.05.2004 at Sector 17 Bus Stand, Chandigarh. During the course of checking five passengers were alighting there, who had boarded the bus from Sector 43 bus stand to Sector 17 bus stand and had paid ₹25/- at the rate ₹5/- each as fare to the workman but he had not issued tickets to them. The conductor admitted his fault and gave un-punched tickets of ₹25/- to the checking staff and put his signature on the waybill. On 31.05.2004 the said bus checked by the checking staff at Sector 43 and three passengers were alighting without tickets, who had boarded the bus from Sector 17 bus stand to Sector 43 bus stand and paid ₹15/- at the rate ₹5/- each as fare to the workman but he had not issued tickets to them. The workman admitted his fault and gave un-punched tickets of ₹15/- to the inspectorate staff. He had committed fraud of ₹ 40/- from the Government revenue. The workman was issued a charge sheet vide No.7565/DT/TA-III/CTU/04 dated 13.07.2004. His reply to the charge sheet was considered and having found un-satisfactory, a

departmental inquiry was ordered be held against the workman. The Inquiry Officer conducted the enquiry in a proper and fair manner. Notices were duly served upon the workman during the enquiry proceedings and the workman appeared before the Inquiry Officer through co-worker and the statement of prosecution witnesses were recorded, who were also cross examined and thereafter, full opportunity of defence was also afforded to the workman and the workman submitted his defence statement before the Inquiry Officer and the Inquiry Officer after considering all the facts, documents and evidence submitted his inquiry report wherein the charges leveled against the workman stood proved. The Inquiry Officer after following proper procedure and manner held that charges leveled against the workman stands proved. A copy of inquiry report was supplied to the workman vide Memo No. 4026/DT/TA-III/CTU/2006 dated 31.03.2006 with the direction to submit the representation, if any. He submitted his reply which was also considered by the competent authority. On 22.08.2006 the workman was heard in person by the competent authority but he did not say anything more than what he had said earlier. The competent authority, in view of the facts and circumstances of the case and in exercise of the powers conferred under Punjab Civil Services (Punishment & Appeal) Rules 1970, ordered to stop one increment with cumulative effect. Order dated 22.08.2006 / 31.08.2006 has been passed by the competent authority are legal, just and are sustainable in the eyes of law as all the record of the case goes against the workman so the charges stand proved. The inspectorate staff had conducted checking as per the instructions. There was no need to record the statement of the passengers and to check the cash of the workman as at the time of checking, the workman himself admitted his fault by giving un-punched tickets to the inspectorate staff and he had also put his signature on the waybill. All the P.W's have strongly reiterated the report made by them. Their statement corroborates with each other and the Inquiry Officer keeping in view the evidences adduced during the inquiry held that the charges leveled against the workman stands proved. There is no legal hitch to merge two reports in one charge sheet. However, two article of charges were made in the charge sheet and it is not merged in one article of charge. The findings of the Inquiry Officer and a punishment order have been issued after adopting due procedure of Law. The appellate authority vide its order dated 15.12.2014 / 09.01.2015 has passed well reasoned and speaking order after affording personal hearing to the workman. Other averments of the case of the workers' union were denied and ultimately, it is prayed that the claim of the workers' union be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the demand raised in the demand notice dated 17.06.2015 by the workers' union is genuine & justified, if so, to what effect and to what relief the workers' union / workman are entitled to, if any ? OPW

2. Relief.

5. In support of the case, the workers' union examined the workman as AW1. Learned representative for the workers' union closed the evidence. On the other hand, learned Law Officer for the management tendered into evidence inquiry file of the workman and closed the evidence.

6. I have heard learned representative for the workers' union and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

ISSUE No. 1:

7. Onus to prove this issue was on the worker's union and to discharge the same learned representative for the workers' union has examined the workman as AW1, who deposed that he joined his services as Conductor on 03.05.2004. He was chargesheeted as per charge sheet dated 13.07.2004 on two accounts. The first charge against him was that on 18.05.2004 when his bus was checked, it was found that he had taken amount of ₹50/- from five passengers at the rate ₹10/- per passengers, who were travelling from the Bus Stand Sector 43 to Bus Stand Sector 17 Chandigarh but had not issued the tickets to them. Second allegation was that on 31.05.2004 when his bus was checked three passengers were found without tickets, who had paid at the rate ₹5/- per passengers and were traveling from Bus Stand Sector 17 to Bus Stand Sector 43, Chandigarh. He replied to the charge sheet but without appreciating his reply the Inquiry officer was appointed. He further

deposed that the Inquiry Officer did not conduct the inquiry in fair & proper manner and without taking into consideration his defence submitted the inquiry report against him. He again made a representation against the inquiry report but the punishing authority without appreciating the same passed an order of punishment on 31.08.2006 whereby stopped his one increment with cumulative effect. He also deposed that charge No.1 is false and is falsified as admittedly fare from Bus Stand Sector 43 to Bus Stand Sector 17 is ₹5/- per passengers then why passengers had given ₹10/- each for the same journey. There is no evidence on record in support of charges to prove that he had charged money from the passengers and had not issued the tickets to them. The statement of Inspectors is hearsay and the same cannot be accepted. The charge sheet as well as reports against him are illegal and in violation of the instructions issued by the department. As per instructions, neither statement of passengers was recorded nor his cash was checked. The Inquiry Officer as well as punishing authority gave their findings on the basis of his admission. He never admitted his fault and un-punched tickets were taken from him without his consent. Before start of checking, un-punched tickets as well as way bill taken from him by the Inspectors and before handing over the same to him the Inspectors took away the un-punched tickets. If he would have not handed over the way bill and un-punched tickets before checking then they would have made the report of misbehavior with Inspectors. He further deposed that two reports as alleged to have been made of different dates have been clubbed in one charge sheet. The Inquiry Officer had not recorded the statement of Inspectors before him and the witnesses have only stated that their report is their statement but the same were not exhibited during the inquiry proceedings. In the absence of the proof of the alleged reports the statements of Inspectors as well as alleged reports cannot be considered. He also deposed that the Inquiry Officer as well as punishing authority have not considered the material on record and have not given any reasoning for rejection of his defence. He further deposed that he met with an accident on 20.05.2007 and remained confined to bed till 02.05.2010 and joined his duties on 03.05.2010 and thereafter also remained under treatment as outdoor patient and is still under treatment so he could not approach the Court earlier.

8. Learned representative for the workers' union has argued that the workman joined the services on 03.05.2004 and performing his duties with due diligence and devotion and he was charge sheeted on 13.07.2004 which was duly replied. The Inquiry Officer has not conducted the inquiry in a fair & proper manner so the order of punishment dated 31.08.2006 is illegal. The Inquiry Officer as well as punishing authority have not considered the material on record and given findings without any reasoning. He further argued that the checking was not done as per instructions Exhibit 'W1' to 'W3'. No statement of passengers was recorded. Cash of the workman was not checked. The workman had not admitted his fault and un-punched tickets were taken without his consent. He did not put his signatures on way bill. He has placed reliance on citations *A.P.S.R.T.C., Rep. by Depot Manager Versus G Murali, 2017(4) SCT538 (SC)* and *Commissioner of Police, Delhi & Others Versus Jai Bhagwan, 2011(6) SCC 376*. He further argued that the order of punishment and order of the appellate authority are non-speaking. The defence of the workman was not considered. He has further placed reliance on citations *Bishnu Prasad Versus Union of India, 1991(3) SCT 496* and *Naresh Chand Verma Versus National Hydroelectric Power Corporation Limited & Others, 2008(2) SCT 456*. He prayed for deciding this issue in favour of the workers' union and against the management.

9. On the other hand, learned Law Officer for the management tendered into evidence inquiry file Exhibit 'M1' and argued that the workman was charge sheeted on 13.07.2004 and reply to the charge sheet was unsatisfactory. The inquiry was conducted in a fair & proper manner. No ground is made out to decide the issue in favour of the workers' union. As per record of the case, charges against the workman were duly proved. All the statements of prosecution witnesses are corroborated with each other and this issue be decided against the workers' union and in favour of the management.

10. After giving my careful consideration to the rival contentions of both the sides, I find that admittedly the workman was appointed as Conductor and joined on 23.02.2004 and his bus was checked by the checking staff on 18.05.2004 at Sector 17 Bus Stand, Chandigarh. During the course of checking five passengers, who had boarded the bus from Sector 43 Bus Stand to Sector 17 Bus Stand and had paid ₹25/- at the rate ₹5/- each as fare to the workman. The allegations against the workman were that he had not issued the tickets to them and the workman admitted his fault and gave un-punched tickets of ₹25/- to the checking staff and put his signatures on the way bill. The un-punched tickets are attached with the inquiry file. The averments of the management is tenable as per record.

11. Further on 31.05.2004 the bus of the workman was checked at Sector 43 and three passengers were found without tickets, who had boarded the bus from Sector 17 Bus Stand to Sector 43 Bus Stand and had paid ₹15/- at the rate ₹ 5/- each as fare to the workman, who did not issue tickets to them. Further he admitted his fault and gave un-punched tickets of ₹15/- to the inspectorate staff.

12. Admittedly, the workman was charge sheeted on 13.07.2004 and filed his reply. As per averments of the management his reply was found unsatisfactory and departmental inquiry was ordered to be held against the workman. As regards fair & proper inquiry is concerned, as per inquiry file attached with the case file notices were duly served upon the workman during the inquiry proceedings and the workman appeared before the Inquiry Officer through co-worker. Statement of prosecution witnesses were recorded, who were also cross-examined. Thereafter the opportunity of defence was also afforded to the workman and the workman submitted his defence statement and the Inquiry Officer after considered all the facts submitted his report as well as charges leveled against the workman stood proved. This fact has duly admitted by the workman during the cross-examination while stepping into the witness box as AW1 that it is correct that he has been charge sheeted for fraud as alleged to have been committed on 18.05.2004 and 31.05.2004 and he was charge sheeted for defrauding ₹ 25 at the rate ₹ 5/- per passenger vide charge sheet dated 18.05.2004 and ₹15/- at the rate ₹ 5/- vide charge sheet dated 31.05.2004 for the route Sector 43 Bus Stand to Sector 17 Bus Stand, Chandigarh. He further admitted that it is correct that regular departmental inquiry was conducted for both the charge sheets and proper opportunity for defence was given by the Inquiry Officer before concluding the inquiry. Further copy of the inquiry report was supplied to the workman on 31.03.2006 to submit the representation, if any. He submitted his reply which was also considered by the competent authority. On 22.08.2006 the workman was heard in person by the competent authority and he was also given an opportunity with regard to say something by way of his explanation. Thereafter the competent authority while exercising his powers ordered to stop one increment with cumulative effect vide order dated 22.08.2006 / 31.08.2006. So argument of learned representative for the workers' union that no opportunity has been granted to the workman does not inspire confidence rather fair & proper opportunities were afforded to the workman before passing impugned order.

13. Other arguments addressed by learned representative for the workers' union that the checking was not as per instructions Exhibit 'W1' to 'W3' also does not hold good as inspectorate staff had checked as per instructions. There was no need to record the statement of the passenger and check the cash of the workman as at the time of checking the workman admitted his fault by giving un-punched to the checking staff and had also put his signatures on way bill and **this fact has been categorically stated by the departmental witnesses namely Shir Jai Parkash and Shri Ram Pal, Inspectors during their cross-examination during inquiry proceedings.** Further the departmental witnesses also reiterated report made by them. Statements of departmental witnesses are corroborated with each other and the Inquiry Officer gave the findings and punishing authority had passed the punishment order after following due to procedure of law and the punishing authority has passed a well reasoned order and the appellate authority had also passed well reasoned and speaking order after affording personal hearing to the workman.

14. It is well settled law that strict rule of evidence are not applicable to the departmental inquiry proceedings. Only requirement of law is that the allegations against the delinquent officer should be established by such evidence acting upon which a reasonable person acting reasonably and with the objectivity may arrive against the delinquent official. The Court exercising jurisdiction of judicial review would not interfere with the findings of fact arriving at the departmental inquiry proceedings except in a case of malafide. In this connection law is well settled by the Hon'ble Supreme Court in *Bank of India & Another Versus V. Degala Suryanarayanan*, AIR 1991 2407. Similarly in case *Union of India & Others Versus Himmat Singh Chahar*, AIR 1999 SC 1980 Hon'ble Supreme Court of India has held that although the High Court is entitled to exercise its power to judicial review by invoking jurisdiction under Article 226 but would be for a limited purpose of finding out whether there has been infraction of any mandatory provisions of the act prescribing the procedure which has caused gross miscarriage of justice or for finding out that whether there has been violation

of principles of natural justice which vitiates the entire proceedings or that the authority exercising jurisdiction had not been vested with jurisdiction under the act. The said power of judicial review cannot be a power of an appellate authority permitting the High Court to re-appreciate the evidence in coming to the conclusion that the evidence is insufficient for the conclusion arrived by the competent authorities.

15. Further reliance is made on citation **Apparel Export Promotion Council Versus A.K. Chopra, AIR 1999 SC 625** in which while considering the scope of interference with the disciplinary matter and punishment the Hon'ble Supreme Court of India has held that the High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power / and jurisdiction to re-appreciate the evidence and come to its own conclusion, on facts, being the sole fact finding authorities. Once finding of the fact based on appreciation of evidence recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since, the High Court does not sit as an appellate authority, over factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot normally speaking substitute its own conclusion, with regard to the guilt of the delinquent for that of the departmental authorities. Even insofar as imposition of penalty of punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the Court in exercise of the power of judicial review is not concerned with the correctness of the findings of fact on the basis of which the order are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision making process.

16. Only plea taken by the workman is copy of inquiry report was not furnished and proceedings are illegal is not tenable as similar plea has been rejected by the Hon'ble Apex Court in CA No.18448 of 2017 arising out of SLP (C) No.4012 of 2017 titled **Uttarakhand Transport Corporation Versus Sukhver Singh decided on 10.11.2017**. In view of the citations relied upon and discussion made above, the authorities relied upon by learned representative for the workers' union is not applicable in the present being distinguishable.

17. In the light of discussion made above, the workers' union has failed to prove that the demands raised in the demand notice dated 17.06.2015 is genuine & justified. Accordingly, this issue is decided against the workers' union and in favour of the management.

RELIEF :

18. In the light of findings on the issue above, this reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

Dated : The 30th November, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 17th January, 2022

No. 13/1/9375-HII(2)-2022/920.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 15/2017 dated 15.12.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT GENERAL SECRETARY, CHANDIGARH TRANSPORT UNDERTAKING WORKERS' UNION (REGD.) C/O HOUSE NO.42/A, SECTOR 30, CHANDIGARH.
(Workers' Union)

AND

1. DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, CHANDIGARH & DIRECTOR TRANSPORT, UNION TERRITORY CHANDIGARH.
2. GENERAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, DEPOT NO.III, UNION TERRITORY CHANDIGARH (Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9375-HII(2)-2017/12529, dated 12.06.2017.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9375-HII(2)-2017/12529, dated 09.06.2017 / 12.06.2017 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 09.01.2016 by President/General Secretary of Chandigarh Transport Undertaking Workers Union (Regd.) C/o House No.42/A, Sector 30, Chandigarh And (1) The Divisional Manager, Chandigarh Transport Undertaking, Chandigarh and Director Transport, Union Territory, Chandigarh (2) The General Manager, Chandigarh Transport Undertaking, Depot No.III, Union Territory Chandigarh, are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. The President / General Secretary, Chandigarh Transport Undertaking Workers Union (*hereinafter called "workers' union"*) had served demand notice dated 09.01.2016 in respect of Shri Jaspal Singh - TG-II (Fitter) (*hereinafter called "workman"*) upon the Divisional Manager, Chandigarh Transport Undertaking, Chandigarh & another (*hereinafter called "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter called "ID Act"*). Upon notice, the workers' union appeared through its representative. Demand notice was ordered to be treated as statement of claim. Case of the workers' union in brief is that the workman joined his services on 13.07.1983 as Helper and since then he has been performing his duties with diligence and devotion throughout. The workman was due for promotion to the post of Assistant Fitter in the year 1989. The case of workman was considered for promotion along with others including his

juniors and in this respect seniority list dated 17.02.1989 was prepared. Though the juniors were promoted on 01.03.1989 but case of workman was deferred as case regarding his suspension was pending which was decided in favour of the workman as per order dated 27.03.1989 and period of suspension was treated as leave of the kind due. Thereafter promotion order of workman was issued on 27.04.1989. All were appointed on ad-hoc basis subject to approval by DPC. Subsequently as per recommendation of DPC workman was promoted as Assistant Fitter on regular basis as per order dated 09.08.1989. When promotion is delayed due to departmental inquiry and subsequently an employee is exonerated in departmental inquiry, he is entitled for promotion from the date junior has been promoted so the workman has been shown rightly promoted with effect from 01.03.1989. Subsequently DPC was convened in the month of July, 1989 and the workman along with others including his juniors was recommended for regular promotion as per proceedings of DPC dated 27.07.1989. Thereafter tentative seniority list was circulated on 30.08.1995 and the workman was placed at serial No.38 whereas he was to be placed at serial No.8A after Bhim Kumar as per seniority list as well as per appointment letter though he had been rightly shown as promoted as on 01.03.1989. Against the tentative seniority list workman made a representation / objection stating that his name be placed at serial No.8A after Bhim Kumar as per the seniority list but the same has not been considered till date and tentative seniority list was never finalized till date. The case of the workman was also recommended by General Manager as per his recommendation dated 24.04.2012 for correction of seniority list, but same has also not been considered till date and all the time whenever workman approached the office he was told that his case is under consideration but no justice is being provided to him till date. Seniority list dated 17.02.1989 have not been changed till date so is the promotion order with effect from 01.03.1989 but workman has not been provided his right place in the seniority. Objection of the workman has not been considered for the reasons best known to the dealing official and undue benefits are being given to juniors on the basis of tentative seniority list. In the appointment letter workman has been placed below Bhim Kumar and so is the seniority list dated 17.02.1989 but the same seniority is not being followed and objections of workman have not been decided till date, in spite of recommendation of General Manager and reminder on the part of workman and Union. Ultimately, it is prayed that the workman be placed at serial No.8A in the seniority list of Assistant Fitter as circulated on 30.08.1995 and he be granted subsequent promotion and placement to higher post from the date same has been given to his juniors with consequential benefits of difference of pay along with interest at the rate 12% per annum.

3. The management contested the case of the workers' union and filed written statement that the meeting of Departmental Promotion Committee in this case was held on 17.02.1989 and it was considered the agenda item for promotion to the posts of Assistant Fitters and S/Sh. Darshan Singh, Sushil Kumar - I, Sarabjit Singh, Rajbir Singh, Prem Lal, Bhupinder Singh, Paramjit Singh, Sunil Tewari, Subhash Chander, Bhim Kumar and Mewa Singh were recommended for promotion against Roster Point No. 60, 61, 62, 63, 65, 66, 67, 68, 69, 70 and 73 respectively. Further DPC considered the candidature of the workman and recommended to keep vacant Roaster point No.72 till the departmental enquiry pending against the workman. In the meantime 31 workshop officials in Assistant trades, who were promoted as per recommendations of DPC held on 17.02.1989, were designated as Assistant Fitters on 30.03.1989 from the date of their promotion vide office order Nos. ECW/CTU/89/762, 764, 766, 768, 771, 775, 777, 778 & 779 dated 01.03.1989. Thereafter departmental enquiry pending against the workman was finalized on 27.03.1989 and the workman was promoted as Assistant Fitter on 27.04.1989 on purely adhoc and temporary basis with the condition that he will not claim any seniority till the Departmental Promotion Committee recommended him for promotion. Accordingly he accepted same and joined on said post. The DPC held on 24.07.1989 recommended the workman for promotion to the post of Assistant Fitter against roster point No.72. A tentative seniority list of Assistant Fitters bearing order No.855/ECW/HOD/CTU/94 dated 15.11.1994 was displayed on the notice board for inviting objections, if any, within 30 days only, but no objection was filed by the workman within stipulated period. Accordingly after considering objections of other officials, the seniority of the Assistant

Fitters were finalized on 30.08.1995. On merits, it is pleaded that the workman joined his services on 13.07.1983 as Helper. A report dated 02.08.1988 was made against him by Shri Raj Kumar, Head Electrician for disobeying the instructions of his superior and refusing to do his duty which amounts to grave misconduct on his part. The workman was charge sheeted vide memo No.9373 dated 12.09.1988. The departmental inquiry was ordered against him vide the office order No.10009 dated 30.09.1988 on the aforesaid charge sheet by appointing an Inquiry Officer. The departmental inquiry was conducted against the workman and the workman appeared and tendered his admission charge sheet and a compromise was arrived between the parties. On admission of the workman, the Inquiry Officer recorded his finding vide his report dated 08.02.1989 whereby he held guilty the workman of the charges leveled against him in charge sheet. After considering the finding of the Inquiry Officer, the punishment order No.1164/ECW/CTU/89 dated 27.03.1989 was passed whereby the workman was warned to be careful in future and his suspension period with effect from 04.08.1988 to 11.08.1988 was ordered to be treated as leave of the kind due. The workman had not challenged this punishment order before the appellate authority under the Punjab Civil Service Rules or any forum. The seniority list was prepared for the seniority list at Serial No.13. The meeting of the DPC was held on 17.02.1989 and the DPC considered the agenda item for promotion to the post of Assistant Fitters and the candidature of the workman was considered and a post of Assistant Fitter was kept vacant against the roster point No.72 till the fate of the departmental enquiry which was pending against him at that time. 31 workshop officials in Assistant trades were promoted as per the recommendation of DPC which was held on 17.02.1989 and they were designated as Assistant Fitters on 30.03.1989 from the date of their promotion i.e. from 01.03.1989 vide the office order dated 30.03.1989 whereas on the order side the departmental enquiry of the workman was concluded on 27.03.1989 that is why the workman came down in the seniority list and he stood at Serial No.38 vide the seniority list dated 30.08.1995 and he was promoted to the post of Assistant Fitter on purely temporary and adhoc basis with immediate effect vide the order No.1662 dated 27.04.1989. These orders were passed subject to certain condition that the workman will not claim any seniority till he is promoted on the basis of the recommendation of the DPC within period on the basis of the recommendation of the DPC within period of one month from the date of issue of the order. Thereafter the meeting of the DPC was held on 24.07.1989 wherein the case of the workman was considered and the DPC recommended the promotion of the workman to the post of Assistant Fitter against roster point No.72 meant for general category. As per recommendation of the DPC, the promotion of the workman was regularized with immediate effect vide order No.489 dated 09.08.1989 meaning thereby the workman was promoted with effect from 09.08.1989 for the post of the Assistant Fitter which the workman admitted at that time and did not challenged the order of his regularize promotion in anywhere. The tentative seniority list was prepared by the office on 15.11.1994 which was duly displayed on the notice board for calling the objections if any within 30 days from the issue of the list. The name of the workman was listed at Serial No.38 and the date of his appointment was shown as 01.03.1989 but the date of appointment of the workman was mentioned wrongly but the same was without any malafide intention as this is a simply clerical mistake and nothing else. The workman has not made any objection with regard to the aforesaid tentative seniority list within the stipulated period of 30 days so it was got finalized vide the Order No.514/ECW/HOD/CTU/95 dated 30.08.1995. The final seniority list was prepared on dated 30.8.1995 wherein the name of the workman was kept at Serial no. 38 under the category of Assistant Fitter. The workman was not promoted as on 01.03.1989. It was inadvertently mentioned in the seniority list that he was promoted as Assistant Fitter on 01.03.1989 but as per facts and record and admitted by the workman that the workman was promoted as Assistant Fitter on 09.08.1989. Though the workman made some representation yet the same were highly belated in the year of 2004 & 2012 which were duly considered by the competent authority but the same were rejected on the ground of limitation/delay being devoid of merit. The request dated 24.04.2012 of the General Manager does not carry any weight as he was not competent nor in the official capacity to send such type of request to the competent authority. Other averments of the case of the workers' union were denied and ultimately, it is prayed that the claim of the workers' union be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the demand raised in the demand notice dated 09.01.2016 by the workers' union is genuine & justified, if so, to what effect and to what relief the workers; union / workman are entitled to, if any ? OPW

2. Relief.

5. In support of the case, the workers' union examined the workman as AW1. Learned representative for the workers' union closed the evidence. On the other hand, the management examined Shri Hardev Singh - Senior Assistant as MW1. Learned Law Officer for the management closed the evidence.

6. I have heard learned representative for the workers' union and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

ISSUE No.1 :

7. Onus to prove this issue was on the workman and to discharge the same the learned representative for the workers' union has examined the workman as AW1, who deposed that he joined his services on 13.07.1983 as Helper. He was due for promotion to the post of Assistant Fitter in the year 1989 and his case was considered for promotion along with others including his juniors and in this respect seniority list dated 17.02.1989 was prepared. Copy of seniority list is Exhibit 'W1'. Though juniors were promoted on 01.03.1989 but his case was deferred due to pendency of suspension case which was decided in his favour as per order dated 27.03.1989. Copy of the same is Exhibit 'W2'. Thereafter promotion order of himself was issued on 27.04.1989 and all were appointed on adhoc basis subject to approval by DPC. Copy of the same is Exhibit 'W3' and copy of DPC proceedings is Exhibit 'W4'. Subsequently as per recommendations of DPC he was promoted as Assistant Fitter on regular basis as per order dated 09.08.1989. Copy of the same is Mark 'A'. He further deposed that tentative seniority list was circulated on 30.08.1995 and he was placed at serial No.38 whereas he was to be placed at Serial No.8-A after Bhim Kumar as per seniority list as well as per appointment letter though he had been rightly shown as promoted as on 01.03.1989. Copy of tentative seniority dated 30.08.1995 is Exhibit 'W5'. Against the tentative seniority list he made a representation / objection stating that his name be placed at serial No.8A after Bhim Kumar as per seniority list Exhibit 'W1' but the same was not considered till date and tentative seniority list was never finalized till date. Copies of representations are Exhibit 'W6' to 'W10'. He also deposed that case of himself was also recommended by the General Manager, as per recommendation dated 24.04.2012 for correction of seniority list but the same was also not considered till date and he was told that his case is under consideration. Seniority list dated 17.02.1989 Exhibit 'W1' and his promotion order with effect from 01.03.1989 was not changed till but he has not been provided his right place in the seniority.

8. Learned representative for the workers' union has argued that the workman was due for promotion to the post of Assistant Fitter in the year 1999 and his case was considered for promotion along with other including the juniors. Copy of seniority list dated 17.02.1989 Exhibit 'W1'. He argued that the case of the workman was kept pending due to his suspension. Copy of order is Exhibit 'W2' and his promotion order was issued on 27.04.1989. Copy of the same is Exhibit 'W3' and DPC proceedings are Exhibit 'W4' so it is argued that his promotion is delayed due to departmental inquiry but later on he was exonerated in the departmental inquiry and he has shown rightly promoted from the date junior have been promoted i.e. from 01.03.1989 but in July 1981 when DPC was convened for regular promotion as per proceedings of the

DPC dated 27.07.1989 and tentative seniority list was circulated on 30.08.1995 and he was placed at serial No.38, copy of the seniority list dated 30.08.1995 is Exhibit 'W5'. Copy of representations made by the workman are Exhibit 'W6' to 'W10' but his case was not considered so act & conduct of the management amounts to unfair labour practice. He argued that issue No.1 that the demand raised in the demand notice dated 09.01.2016 is genuine & justified. Learned representative for the workers' union has placed reliance on citations *Gurpal Singh Versus High Court of Judicature for Rajasthan, 2013(2) RSJ 313 (SC)* and *J. Anbutamilarasi Versus The State of Tamil Nadu, Rep. by the Secretary & Other, 2021(1) SCT 245 (Madras)* and prayed for allowing the reference in favour of the workers' union.

9. On the other hand, learned Law Officer for the management has examined Shri Hardev Singh - Senior Assistant as MW1, who deposed that the workman had joined his services on 13.07.1983 on the post of Helper and he was charge sheeted for disobeying the instructions of his superior and refusing to do his duty. The departmental inquiry was conducted against the workman wherein the Inquiry Officer held the workman guilty for the charges leveled against him. After considering the findings of the Inquiry Officer, punishment order No.1164/ECW/CTU/89 dated 27.03.1989 was passed whereby the workman was warned to be careful in future and his suspension period with effect from 04.08.1988 to 11.08.1988 was ordered to be treated as leave of the kind due. The workman did not challenge this punishment order before the appellate authority under the Punjab Civil Service Rules. He further deposed that the meeting of the DPC was held on 17.02.1989 and the DPC considered the agenda item for promotion to the post of Assistant Fitters and candidature of the workman was considered and a post of Fitter was kept vacant against roster point No.72 till the fate of the departmental inquiry, which is pending against him. He further deposed that 31 workshop officials in Assistant trades were promoted as per recommendations of DPC, which was held on 17.02.1989 and they were designated as Assistant Fitters on 30.03.1989 from the date of their promotion i.e. 01.03.1989 whereas the departmental inquiry of the workman was concluded on 27.03.1989 that is why the workman came down in the seniority list and he stood at serial No.30 vide seniority list dated 30.08.1995 and he was promoted to the post of Assistant Fitter on purely temporary and adhoc basis with immediate effect vide order No.1662 dated 27.04.1989. These orders were passed subject to conditions that the workman will not claim any seniority till he is promoted on the basis of recommendations of the DPC within period of one month from the date of issue of the order. Thereafter the meeting of DPC was held on 24.07.1989 wherein the case of the workman was considered and the DPC recommended the promotion of the workman to the post of Assistant Fitter against roster point No.72 meant for general category. As per recommendation of DPC, the promotion of the workman was regularized with immediate effect vide order No.489 dated 09.08.1989 meaning thereby the workman was promoted with effect from 09.08.1989 for the post of Assistant Fitter which was accepted by the workman. He further deposed that the workman was never exonerated in the departmental inquiry but he was awarded a minor punishment of warning. The tentative seniority list was prepared by the office on 15.11.1994 which was duly displayed on the notice board for calling the objections, if any, within 30 days from the issue of list. The name of the workman was listed at serial No.38 and the date of his appointment was shown as 01.03.1989 but the workman had not made any objection with regard to aforesaid tentative seniority list within stipulated period of 30 days. The workman was not promoted as on 01.03.1989 and it is inadvertently mentioned in the seniority list that he was promoted as Assistant Fitter on 01.03.1989 whereas as per facts & record, the workman was promoted as Assistant Fitter on 09.08.1989. The workman made some representations but they were highly belated and was rejected on the ground of limitation / delay being devoid of merit.

10. Learned Law Officer for the management has argued that the present claim statement is not maintainable as it is filed at belated stage and the workman had approached the Court with un-clean hands in fact the departmental inquiry was pending against the workman and thereafter the workman was promoted as Assistant Fitter on 27.04.1989 on adhoc basis and temporary basis and tentative seniority list of Assistant Fitter was prepared on 15.11.1994 but the workman had not filed objection within the stipulated

period. Hence, the seniority has been finalized. He has also proved on record Exhibit 'WX1' copy of seniority list and placed reliance on the documents Exhibit 'W3' dated 27.04.1989 in which the workman has been promoted as Assistant Fitter. He prayed for dismissal of the reference.

11. After giving my careful consideration to the rival contentions of both the sides, I find that it is admitted case of the parties that the workman joined the services on 13.07.1983 as Helper and the case of the workman was considered for promotion along with other including juniors. Seniority list dated 17.02.1989 was prepared and the copy of the seniority list is Exhibit 'W1'. It is also not disputed that juniors to the workman were promoted on 01.03.1989 and the case of the workman deferred because of pendency of suspension order.

12. Order dated 27.04.1989 Exhibit 'W3' reads as under :—

*"Shri Jaspal Singh, Helper/Cleaner is hereby promoted as Assistant Fitter in the Pay Scale of Rs.950-20-1150/25-1400 on purely temporary and ad hoc basis with immediate effect. **He will not claim any seniority till he is promoted on the basis of recommendation of the Departmental Promotion Committee within a period of one month from the date of issue of this order.**"*

Meaning thereby it is very well mentioned in the order dated 27.04.1989 that the workman was promoted as Assistant Fitter on 27.04.1989 and he will not claim any seniority till he is promoted on the basis of recommendations of the Departmental Promotion Committee (DPC). Accordingly, the workman accepted the same and joined on the said post. The DPC held on 27.04.1989 recommended the workman for promotion to the post of the Assistant Fitter against roster point No.72. Further as per Exhibit 'WX1' order dated 30.08.1995 the finality seniority list was prepared wherein the name of the workman was kept at serial No.38 under the category of Assistant Fitter. No representation / objection was raised by the workman when the tentative seniority list was prepared and displayed on the notice board whereas it is clearly mentioned therein that the objections should be raised received in the office within 30 days from the date of tentative seniority list. No doubt the workman made representation i.e. Exhibit 'W6' to 'W10' but all were at highly belated stage i.e. in the year 1996, 2004 & 2013. Meaning thereby the workman was well aware of the tentative seniority list but he had not filed any objection within time limit for his grievances within stipulated period so he is not entitled for relief as prayed for. Citations relied upon by learned representative for the workers' union are not directly applicable in this case being quite distinguishable as in the present case admittedly the workman has already been considered for promotion and was promoted, which was accepted by him and further no objection has been raised by the workman with regard to seniority within stipulated period and challenged the same at belated stage. In the light discussion made above, the workers' union has failed to prove that the demand raised in the demand notice dated 09.01.2016 by the workers' union is genuine & justified. Accordingly, this issue is decided against the workers' union and in favour of the management.

RELIEF :

13. In the light of findings on the issue above, this reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

Dated : The 15th December, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 21st January, 2022

No. 13/1/9826-HII(2)-2021/1019—Inexercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 45/2018, dated 11.12.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SANJEEV KUMAR S/O SHRI MANGE RAM, RIO HOUSE NO.660, VIKAS NAGAR, MAULI JAGRAN, UNION TERRITORY CHANDIGARH. (Workman)

AND

1. AMAR UJALA, SHOW ROOM NO.34-37, SECTOR 9, CHANDIGARH THROUGH ITS GENERAL MANAGER.
2. SIMPLEX SOLUTION, # 320, GOLDEN SQUARE, ZIRAKPUR - 140603, PUNJAB THROUGH ITS DIRECTOR / AUTHORISED INCHARGE. (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that he joined the management in January 2011 through the contractor. Though the contractors changed from time to time but he continued to work with the management. Term of one of the contractor i.e. M/s Simplex Solutions expires on 31.03.2017. The workman was working with the management as usual but on 31.08.2017, the management through new contractor, who takes over with effect from 01.04.2017, terminated the services of the workman and did not allow the workman to enter its premises for work.

3. The management contested the case of the workman and filed written statement preliminary objection that the workman was employee of the contractor M/s Simplex Solutions so there is no relationship of employer and employee between the answering management and workman, as such, the question of termination of services of the workman does not raise.

4. The workman filed replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPR
2. Whether there is no relationship of employer & employee between the workman and management ? OPM
3. Whether the claim of the workman is bad for non-joinder of necessary parties ? OPM
4. Relief.

5. Thereafter the application for impleading the contractor in the claim statement filed by the management, which was allowed vide order dated 20.11.2020 and M/s Simplex Solutions was ordered to be impleaded as management No.2.

5. During the pendency of the present industrial dispute, the parties settled their dispute amicably and the workman made the following statement :—

"I am the workman in above noted case. The present case has been settled with the management of Amar Ujala and with contractor i.e Simplex Solution Management No.2. I have received the amount of Rs.100000/- full and final settlement. After this settlement I have no claim against the management regarding my employment and all dues. The present industrial dispute may be disposed off accordingly."

6. Case taken up in Lok Adalat. In view of the statement of the workman, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

Dated : The 11th December, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 21st January, 2022

No. 13/1/9831-HII(2)-2022/1021.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 32/2020, dated 11.12.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

ANITA BARMAN W/O SHRI MANORANJAN BARMAN, AGED 39 YEARS, R/O # 58, DHANAS, CHANDIGARH (Workman)

AND

CHIEF CONSERVATOR, FOREST DEPARTMENT, CHANDIGARH ADMINISTRATION, PARYAVARAN BHAWAN, 2ND FLOOR, MADHYA MARG, SECTOR 19-B, CHANDIGARH. (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that she was appointed by Shri Bhupinder Singh, Officer of Forest Department with effect from 01.04.2015 as Mali-cum-Labour. On 24.08.2018 her services were terminated without giving any prior notice. There is serious violation of Section 25-F, 25-G & 25-H and other provisions of the ID Act.

3. The management contested the case of the workman and filed written statement that there exists no employer-employee relationship in between the management and workman as she was ever appointed by the management.

4. During the pendency of the present industrial dispute the case is taken up in Lok Adalat, the workman made the following statement :—

"The workman did not want to pursue her present industrial dispute. The same may be disposed off accordingly"

In view of the above statement of learned representative for the workman, the present industrial dispute is disposed of being not pressed. Appropriate Government be informed. File be consigned to the record room.

Dated : The 11th December, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 21st January, 2022

No. 13/1/9823-HII(2)-2022/1022—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 94/2021 dated 11.12.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

LAL BABU S/O SHRI MAHAVEER SINGH, R/O # 31, VILLAGE HALLOMAJRA, CHANDIGARH. (Workman)

AND

1. NONI ENTERPRISES, PLOT NO.913-A, INDUSTRIAL AREA, PHASE - II, CHANDIGARH THROUGH ITS SHRI HARVINDER SINGH KHANNA.
2. AQUIPA ENTERPRISES, PLOT NO.3119, INDUSTRIAL AREA, PHASE II, CHANDIGARH THROUGH SHRI PRABHJEET SINGH
3. KHANNA ENTERPRISES, PLOT NO.3118, INDUSTRIAL AREA, PHASE - II, CHANDIGARH THROUGH ITS PROPRIETOR / OCCUPIER. (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that he was appointed by the management with effect from 01.01.2000 as Pressman. The management had opened their companies in the name & style, as mentioned above as management No.1 to 3. All the companies were running by Khanna's undivided family with the

help of similar employees. M/s H. K. Enterprises and M/s S. U. Enterprises were also opened by the management. The management was taking work from the workman and other workmen in the above mentioned companies. The services of the workman were terminated by the management on 11.09.2019 without giving any prior notice, conducting inquiry. The management had violated the provisions of Section 25-F, 25-G & 25-H of the ID Act.

3. Management No.1 contested the case of the workman and filed written statement that the answering management had recruited its own staff and employees and has maintained a separate payroll for each of them. The workman was employed by the management as Helper. The answering management is engaged in the work of sheet metal components while management No. 2 & 3 are engaged in different type of activity which does not concern the answering management and have separate office, staff, machinery, equipment and employees for the purpose of its activities. The answering management had no concern with the working of management of M/s Aquipa Enterprises and M/s Khanna Enterprises. The management had not terminated the services of the workman rather the workman had himself left the employment willfully on his own accord.

4. Management No. 2 contested the case of the workman and filed written statement that the workman was never employed by the answering management.

5. Management No. 3 contested the case of the workman and filed written statement that the workman was never employed by the answering management.

6. During the pendency of the present industrial dispute, the case taken in Lok Adalat wherein the parties settled their dispute amicably and the Proprietor of the management made the following statement :—

"Management is ready to reinstate the workman along with the continuity of service and a sum of Rs.5000/- towards compensation."

In response to the above statement, the workman made the following statement :—

"I have heard the statement of Shri Harvinder Singh Khanna, Proprietor and is ready to join my duties as per offer made by the management. My present industrial dispute may be disposed of accordingly."

In view of the above statements, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

Dated : The 11th December, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

Secretary Labour,
Chandigarh Administration.

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